

## **REMARKS**

Claims 1, 3-7, 9, 10, 14-33, and 35 were rejected in an Office Action dated August 18, 2006. Support for the amendments may be found throughout the specification and particularly in the "Detailed Description of the Invention." Applicants respectfully request reconsideration of the present application in view of the following remarks. Applicants believe that the following remarks place this application in condition for allowance.

### **Rejections under 35 U.S.C. §102**

Claims 1, 5-7, 9, 10, 14, 17, 19, 20, 22-31, and 33 are rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent to Tu, et al. (5,061,276, hereinafter patent '276) as disclosed in Figures 2 and 8; column 3, lines 4-6 and 35-38; column 4, lines 53-55; column 5, lines 29-33, 46-48, and 55-63; column 7, 19-22; column 10, lines 34-38; column 11, lines 7-11; and column 12, lines 1-4 and 20-21.

Applicants respectfully traverse the rejection. As provided in MPEP 2131 "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Examiner suggests that patent '276 discloses (column 12, lines 20-21) a tube with an outer covering, Figure 2. The Examiner further suggests that patent '276 discloses a graft tube made of polytetrafluoroethylene and has a covering or polytetrafluoroethylene, column 5, lines 29-33. However, the Examiner fails to recognize that the depicted outer covering in Figure 2 is a blend of an elastomer. Additionally, the covering described in column 5, lines 29-33 is a blend of polytetrafluoroethylene/elastomer, not a polytetrafluoroethylene as the Examiner describes. In fact, if the elastomeric covering of patent '276 is replaced with the "covering of one or more layers of porous polytetrafluoroethylene film" of the present application, the invention of patent '276 would not work, as the Applicants' covering is a porous polytetrafluoroethylene film, and not an elastomer nor does it have elastomeric properties.

The Examiner also suggests that patent '276 discloses the graft circumference increases as a result of the blood pressure column 5, lines 46-48. Again, we submit that patent '276 describes minimizing the dilation of the

graft due to the inherent elasticity provided the fibers during blood flow. The elasticity necessary to minimize dilation as required by patent '276 is lacking in the recitations of the present invention. Claim 1 requires the "covering of one or more layers of porous polytetrafluoroethylene film" in the present invention. Additionally, the present application is inapposite in that "the second circumference remains substantially unchanged with further increasing of internal pressure."

Finally, patent '276 does not disclose an "at least 100% increase" in diameter as the Examiner suggests. Column 10, lines 34-38 discloses "The inside diameter of the tubing, which is normally about 4 mm to about 8 mm, is radially expanded to be about 6 mm to about 10 mm." This is not an "at least 100% increase" in diameter. Further, this section of patent '276 discloses only a range of diameter and does not provide any information to the extent of the increase. The numbers in the range provided can only be selected according to the teaching and the intention of the invention. The increase in diameter as allowed by patent '276 is due merely to compliance of the materials, and depends upon the chosen elastomer. The limits of the increase of diameter allowed by patent '276 are 5% to about 50%; as disclosed in column 8, lines 43-47. In fact, nowhere in patent '276 or the co-pending application is an increase of greater than 50% in the diameter described.

Thus, all elements of the claims at issue are not taught or suggested as required under section 102. Applicants respectfully request reconsideration and withdrawal of this rejection, and allowance of the rejected claims.

#### **Rejections under 35 U.S.C. §103**

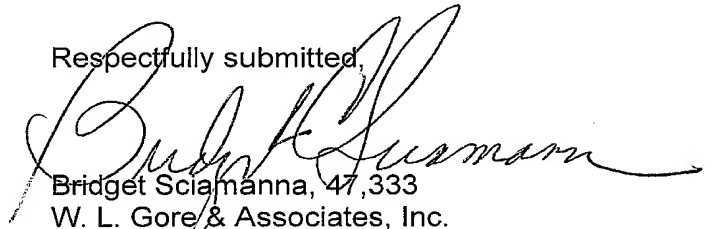
Claims 18 and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over patent '276 in view of Hughes, *et al.* (4,728,328). Also, claims 3, 4, 15, 16, and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over patent '276 in view of Lee (5,123,917). Again, Applicants respectfully request reconsideration, as any modification or combination of patent '276 that results in loss of the elasticity of the outer covering would cause the invention of patent '276 to fail for its intended purpose. Hence, there is no suggestion or motivation to modify or change the elastic properties of the outer covering of patent '276. The Lee patent does not disclose the present invention, nor does it supply '276 with the requisite teaching to describe the present invention as required under this section 103.

Applicants respectfully request reconsideration and allowance of these claims.

**Conclusion**

For the foregoing reasons, the present invention is neither taught nor suggested by any of the references of record. Accordingly, Applicants respectfully submit that these claims are now in form for allowance. If further questions remain, Applicants request that the Examiner telephone Applicants' undersigned representative before issuing a further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bridget Sciamanna", is written over the typed name and address.

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